

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA) CASE NO. 4:23-CR-00127-P
)
) FORT WORTH, TEXAS
vs.)
) JULY 11, 2024
CHRISTOPHER KIRCHNER) 10:10 A.M.

VOLUME 1
TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE MARK T. PITTMAN
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S:

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P R O C E E D I N G S

(July 11, 2024, 10:10 a.m.)

THE COURT: Next up is Case Number 4:23-CR-127-P-1, this is United States vs. Christopher Kirchner.

MR. DETZKY: Joshua Detzky on behalf of the United States. Good morning, Your Honor.

MS. JOHNSON: Nashonme Johnson on behalf of the United States. Good morning, Your Honor.

MS. JACOBS: Katie Jacobs on behalf of the United States. Good morning.

MR. WEINBEL: Christopher Weinbel for Mr. Kirchner. We're ready.

THE COURT: Mr. Kirchner, would you state your full name for us.

THE DEFENDANT: Christopher Kirchner.

THE COURT: Mr. Detzky, will you be conducting most of the sentencing proceeding?

MR. DETZKY: Excuse me, Your Honor?

THE COURT: Will you be conducting most of the sentencing proceeding today on behalf of the United States?

MR. DETZKY: That's correct, Your Honor. And then my colleague, Ms. Jacobs, would like to briefly address the Court on the issue of restitution.

THE COURT: Okay. We'll talk about that when we come to restitution. I see Mr. Rocha is here, we have an

1 issue with regards to some of the forfeiture matters. We
2 have -- I'd like at the end of the sentencing, Mr. Rocha, for
3 you to be prepared to tell me what's going on with regards to
4 the forfeiture. For example, does the bank or Tarrant County
5 still have any outstanding claims, what about the claims of
6 Mrs. Kirchner?

7 It's not something that I believe that I need to
8 decide here today. Mr. Kirchner needs to receive his sentence
9 and go where he needs to go, and we can work out the
10 forfeiture at a later date. But I would like for you to brief
11 me on it, okay?

12 **MR. ROCHA:** Yes, Your Honor.

13 **THE COURT:** All right. Let the record reflect that
14 the forfeiture attorney for the United States is here and
15 present, that's Dimitri Rocha.

16 Mr. Rocha, I'm assuming we don't have anybody from
17 the lienholders here, so just be careful what you do. We
18 don't want to make any ex parte communications. I'd just like
19 to know the status of the case after we're done, okay?

20 **MR. ROCHA:** Yes, Your Honor.

21 **THE COURT:** Okay. All right. The Court would like
22 to make a few findings before we begin. This case has been a
23 mess when it comes to the representation of Mr. Kirchner.
24 Mr. Kirchner started out with private counsel. He couldn't
25 afford private counsel, so a very able Government counsel was

1 appointed and represented him in the trial of this matter.

2 By judging from the filings on the docket,
3 Mr. Kirchner, since the verdict came back in your case, back
4 on January the 25th, I've had various motions that have been
5 filed by the Public Defender's Office asking to be released
6 from representation in this case alleging that you have not
7 been cooperating or speaking to your appointed attorneys.

8 Now, one thing that is not allowed under the rules
9 is you not communicating or cooperating with your attorneys.
10 And you can't delay sentencing, you can't obstruct the
11 proceedings by not communicating with your attorneys.

12 And to the extent that that might have been going on
13 in this case, I'm going to admonish you again not to do that.
14 The public defender only on Monday had a hearing on its second
15 motion to withdraw that Mr. Weinbel filed that was heard by
16 our Magistrate, Judge Cureton, who declined and overruled the
17 motion to withdraw, Docket Number 139. The Court will be
18 adopting those findings for purposes of the hearing today.

19 The reasoning that was given on the record by
20 Mr. Cureton -- by Judge Cureton, rather, declining to let the
21 Federal Public Defender withdraw from this case are sound and
22 supported by the facts on the record in this case, and I adopt
23 them 100%. You can't play these games and try to avoid the
24 inevitable. And this is -- the attorneys that you have been
25 given, you have in this case been given the best defense that

1 you were able to get under the circumstances.

2 You were the individual that chose to go to trial
3 in this matter. You'll remember that the jury took about
4 30 minutes to come back and reach its guilty verdict on all
5 11 counts in this case. The evidence was not only beyond a
6 reasonable doubt, it was overwhelmingly beyond that standard.
7 You're the individual that chose to go to trial. You got the
8 best defense that you could get at the expense of the
9 taxpayers. You were also allowed to call expert witnesses.

10 But we're not going to play these games, okay? The
11 jury in this case took less time to deliberate than I would
12 have seen in the car wreck cases that I used to handle when I
13 was a state court judge. This may be, in my ten years of
14 experience as a judge, the shortest amount of deliberations
15 that I have ever seen. Yet, you chose to go to trial. So, I
16 want you to keep that in mind.

17 But for purposes of the record here today, we are
18 going forward with the counsel that represented you at your
19 trial, that would be the Federal Public Defender's Office.
20 And as I said, Mr. Weinbel did an outstanding job with the
21 facts and circumstances that he had. And I don't know what
22 you were expecting, but as good a job and as good of an
23 attorney as you had at trial, it is impossible to turn a piece
24 of coal into a diamond.

25 So, we're going to go forward with the sentencing

1 and you're going to begin your sentence. And any complaints
2 that you may have, you are certainly free to take them up with
3 the Fifth Circuit. And if they told me that I did something
4 wrong or your attorney did something wrong, I promise you that
5 I will comply with whatever they order me to do.

6 But for purposes of this sentencing you're going to
7 be represented by the public defender. I'm assuming, after
8 we're done today, Mr. Weinbel and the Public Defender's Office
9 will file another motion to be allowed to withdraw. And I
10 haven't seen their motion yet, but I would guess after they
11 file that that you'll be assigned an appellate specialist that
12 will take your case to the Fifth Circuit.

13 And you'll have a panel of three judges, and
14 possibly the entire court can look over the record of this
15 case. And if I did anything that was inappropriate or if
16 anybody else did, including the United States Attorney's
17 Office, they will let me know.

18 But when it comes to playing games with sentencings
19 and my schedule, as busy as we are here, you are no better and
20 no worse than anybody else that I have seen. And I have said
21 this to the attorneys numerous times in this case, we are the
22 busiest division in the entire country, with only two active
23 judges.

24 And I know a lot of times the attorneys think that I
25 am losing my patience and not giving cases the time that they

1 deserve. I do my best to give the cases and the defendants in
2 any case the time that they deserve, but I'm not in a
3 situation where I can have my time wasted. Because if that's
4 the case, it adversely affects the other folks.

5 So, I want you to keep that in mind. I want the
6 attorneys to keep that in mind, including those who are not
7 here for this case today but have sentencings later in the
8 day.

9 This is not a forum in which we include each and
10 every detail and we pile on, we just don't have the luxury of
11 doing that. And until Congress allocates additional seats for
12 the Fort Worth Division, it will likely stay the way it is
13 now.

14 But when we have dockets that are three times busier
15 than the average Dallas docket, and when I have to sentence
16 eight to 15 people a week just to keep up, we need to make
17 sure that we know what the responsibilities are of attorneys
18 and parties in the Court.

19 All right. Again, would you state your full name
20 for us, Mr. Kirchner.

21 **THE DEFENDANT:** Christopher Kirchner.

22 **THE COURT:** Do you have a middle name?

23 **THE DEFENDANT:** Steven.

24 **THE COURT:** All right. Mr. Kirchner, you appeared
25 here before the Court beginning on January the 25th of 2024,

1 that was the end of trial in this matter. At that time the
2 jury found you guilty on Counts 1 through 11 of the
3 superseding indictment, charging you with wire fraud and
4 engaging in monetary transactions and property derived from
5 specified unlawful activity, in violation of 18 United States
6 Code, Section 1343 and 18 United States Code, Section 1957.

7 At this time I'll ask counsel for Mr. Kirchner, Did
8 you have an opportunity to receive, not only our presentence
9 report, but the addendum to the presentence report?

10 **MR. WEINBEL:** Yes, Your Honor.

11 **THE COURT:** I know that we have some issues
12 regarding restitution, and I'd like to take those up.

13 At this time, Mr. Weinbel, you've objected to the
14 loss amount and the loss calculation. I think that this is
15 part and parcel of the restitution in this case.

16 We also have a second amendment. I apologize, my
17 file is a mess. Did you and your client have a chance to
18 review the presentence report, the first addendum and the
19 second addendum?

20 **MR. WEINBEL:** Yes, Your Honor.

21 **THE COURT:** Did the Government have time to receive
22 and review those three documents?

23 **MR. DETZKY:** Yes, Your Honor.

24 **THE COURT:** All right. At this time I'd like to
25 take up the objection. I do think it's worthwhile, given the

1 many filings in this case to hear some argument and
2 presentation on it.

3 Mr. Weinbel has objected on behalf of his client to
4 paragraph 59. Mr. Detzky, you also lodged an objection, which
5 I believe has been reviewed and accepted by probation. I'm
6 prepared to accept the Government's objection.

7 But I do think I would like to hear some argument on
8 Mr. Weinbel's objection, specifically as to what he should be
9 held accountable for, number one. And number two, from the
10 Government as to what the appropriate restitution amount is.
11 I think this is part and parcel of the same argument. But I
12 will be accepting and sustaining the Government's objection.

13 But at this time I'll turn it over to you,
14 Mr. Weinbel. If you would like to make your record with
15 regards to your objection to paragraph 59, please do so.

16 **MR. WEINBEL:** Thank you, Your Honor.

17 So, the total amount with the intended loss ended up
18 coming to about 71 million, and I don't believe that's a true
19 loss amount in this case.

20 As it was shown at trial, about 71 million is what
21 the company Slync ended up taking in from investors in total.
22 The amount in question, and what he was charged with, was
23 about 23 million, as to the wire fraud and money laundering
24 counts that he was alleged to have converted to his own use.

25 I believe that's a better number to use as the loss

1 amount, because the rest of that, between 71 and 73 million,
2 was used to pay investors, to pay payroll, to use for the
3 company. So, if those were to be included in a restitution
4 amount, you would not only be making them whole, you'd be
5 doubling what they've already made.

6 Every one of these victims, as was seen here, came
7 in on their private jets from their huge mansions, that they
8 lost no money in this transaction. Almost every single one of
9 them is doing better today than they were before.

10 **THE COURT:** Well, but let me ask you something,
11 those were amounts that were given to them, they're not
12 exactly their amounts. In most cases, as I recall from the
13 trial, they were pension funds. So, those loss amounts could,
14 at least arguably, come from people like me and you that are
15 paying into our pension. Folks like my wife that pays into a
16 pension fund through the State of Texas. We have firefighters
17 unions, et cetera, et cetera, pension funds.

18 So, to say that these were from the folks that --
19 Elon Musk that flew in, it wasn't something that came from his
20 private checking account. At least you'll concede that, won't
21 you?

22 **MR. WEINBEL:** So, there was one that was a pension
23 account. But, for instance, ACME, Blumberg and the Goldman
24 Sachs money was all straight from those companies, did not
25 come from those accounts. They were just money given to the

1 company, Slync.

2 And then during the lifeline of Slync, money ended
3 up being made, they sold their own stocks, made most of this
4 back. After all of this went down and Mr. Kirchner was
5 removed, they even reinvested more money into this company.
6 And so I think it -- it would be false to say that they should
7 get back all the money they put in when they've already gotten
8 it back.

9 **THE COURT:** All right. Mr. Detzky?

10 **MR. DETZKY:** Yes, Judge.

11 Any discussion of loss has to start with the premise
12 that Your Honor only need make a reasonable estimate of the
13 loss based on the evidence presented. And Your Honor can rely
14 on and adopt the facts detailed in the PSR without further
15 inquiry here.

16 And it's obviously the defendant's burden to present
17 some sort of rebuttal evidence to show that the facts in the
18 PSR are untrue or inaccurate. And nowhere in his objection
19 does he say that the factual underpinnings or the figures for
20 the loss amounts in the PSR are incorrect.

21 **THE COURT:** Well, let me stop you one second. In
22 looking at my murals in the back of the courtroom here, and I
23 look at the taking down of Sam Bass on the streets of Round
24 Rock. Sam Bass famously stole \$60,000, not 70 million, from a
25 bank up in Kansas.

1 Let's say that someone robs a bank and the bank
2 submits an insurance claim to the Federal Deposit Insurance
3 Corporation and ends up fortuitously getting more money back
4 than was actually stole by Sam Bass in the bank robbery.

5 Does that mean that Sam Bass didn't steal the
6 \$60,000 and shouldn't be held accountable for that?

7 **MR. DETZKY:** No, Your Honor.

8 But I will say that what defense counsel just put
9 forth on the record is completely and factually inaccurate.
10 None of the investors here got a dime back from Slync or the
11 defendant. They lost the entirety of their investments that
12 they put into Slync.

13 **THE COURT:** And it just would have been fortuitous
14 if they got their money back on another investment?

15 **MR. DETZKY:** If -- if they did get their money back
16 it would have been fortuitous.

17 In actuality, these same victim investors that are
18 included in the PSR for loss purposes put in even more money
19 after Mr. Kirchner was removed as CEO and lost the entirety of
20 that investment as well trying to save the company. But,
21 obviously, that doesn't go to the scheme, so that wasn't
22 included for loss purposes.

23 But none of these victims got a dime back from Slync
24 or the defendant. They lost the entirety of their investment.
25 And they only were induced to invest based on factual

1 misrepresentations made by the defendant. If they knew the
2 truth, they never would have put the money in.

3 And this was part --

4 **THE COURT:** Well, and I think it's worth pointing
5 out is the -- detailed in the second addendum, that we do have
6 one of the victims in this request, ACME, that actually
7 requested an additional amount of loss for the victims in this
8 case of \$81 million that wasn't included in the loss amount
9 for the calculations in this case.

10 Isn't that correct?

11 **MR. DETZKY:** \$81,000 for the --

12 **THE COURT:** I'm sorry, 81,000. I'm -- too many
13 numbers there for an Aggie to read.

14 **MR. DETZKY:** Your Honor, that is a request for
15 restitution for counsel fees, I believe, that ACME put forth
16 in their victim impact statement. That would not go to a loss
17 analysis for sentencing guideline purposes. And Ms. Jacobs is
18 ready to address that, because the Government submits that
19 that restitution number for counsel fees is actually lower
20 than ACME is submitting.

21 **THE COURT:** All right. I do think that the
22 guideline calculations in this case are appropriate with
23 regards to the loss amount to which Mr. Kirchner can be
24 subject to, as calculated in paragraph 59. Defendant's
25 objection will be overruled. As far as I'm concerned that

1 objection is preserved for the Fifth Circuit.

2 Ms. Jacobs --

3 **MS. JACOBS:** Yes, Your Honor.

4 **THE COURT:** I'm sorry, I'm used to thinking of you
5 as Ms. Carr. Would you please take me through what you
6 believe the current loss amount is. And again, we do have a
7 recent request from ACME for an additional \$81,000, as was
8 pointed out by Government's counsel.

9 The current amount of restitution that I have is
10 \$65,560,735.67.

11 **MS. JACOBS:** Yes, Your Honor.

12 So, briefly as it relates to attorney's fees --

13 **THE COURT:** I'm sorry, ma'am. This is like a ping
14 pong ball, it keeps going back and forth. The current
15 restitution amount that I have with regards to calculations
16 that were given to me by the U.S. Probation is \$65,485,938.12.
17 So, that's approximately \$75,000 less than the amount that I
18 just read to you.

19 So, can you continue with your argument, just so I
20 have a good idea of what the restitution amount is. And,
21 again, a lot of this is purely academic. I'm guessing that
22 Mr. Kirchner is never going to be able to come up, if he lives
23 to be 120, with \$65.5 million restitution.

24 **MS. JACOBS:** Yes, Your Honor.

25 So, with the attorney's fees included in the PSR,

1 I'd like to start -- there's Correlation Ventures, there is
2 ACME, and then the final one, which is the largest requested
3 as it relates to costs and attorney's fees related to this
4 criminal trial and witness testimony is for Blumberg.

5 So, there have been three victim impact statements
6 submitted that did include the attorney's fees request. I --
7 I'd like to offer some exhibits at this time to correspond
8 with those. Specifically, you know, just to make sure we have
9 a clear record, that it's not just the general number included
10 in the victim impact statements, that it's actually the
11 itemized bills that were provided by counsel for the various
12 defendants.

13 So, if I may, Your Honor --

14 **THE COURT:** Have you shown these to defense counsel?

15 **MR. WEINBEL:** Yes, Your Honor.

16 **MS. JACOBS:** Yes, Your Honor, I have. And I have
17 copies for them, as well as for the Court.

18 **MR. WEINBEL:** We have no objection, Your Honor.

19 **THE COURT:** All right. Let me take a look at those.

20 **MS. JACOBS:** May I approach Your Honor.

21 **THE COURT:** Yes, ma'am.

22 *(Attorney approaches the bench)*

23 **MS. JACOBS:** Your Honor, we also request, because of
24 the nature of these itemized billing statements submitted,
25 that they be placed under seal, to protect the victim

1 information as well as, you know, any attorney/client that may
2 be provided therein.

3 *MR. WEINBEL:* We also have no objection, Your Honor.

4 *THE COURT:* All right. The -- Government's Exhibits
5 A, B and C will be placed under seal and admitted as part of
6 the record in this case.

7 *MS. JACOBS:* Your Honor --

8 *THE COURT:* I see Mayer Brown charged up a whopping
9 \$378,000 to respond to a subpoena.

10 *MS. JACOBS:* Well, Your Honor, if I may, I'd suggest
11 that we go with the smallest amount related, it's the one
12 entitled -- Exhibit A, entitled Dillon Miller Ahuja & Boss.
13 This one, in review -- I reviewed them closely and it looked
14 like there was some expenses including for a corresponding SEC
15 investigation. There is case law to support that those should
16 not be included in the restitution amount.

17 *THE COURT:* I wouldn't feel comfortable including
18 that anyway.

19 *MS. JACOBS:* Yes, Your Honor.

20 So, I have -- the amounts that I have provided to
21 probation do exclude specifically on Exhibit A, it's Bates
22 number page 1 and 2. And then the final pages were submitted
23 far after the time to submit the bills. And so, it's Bates
24 numbers 15 through 18 we would also suggest should be omitted.

25 And that would bring us to the new total, to

1 8,800 -- excuse me, \$8,854, rather than the original request
2 of 11,892.75.

3 **THE COURT:** And educate me on how this works. That
4 would be the amount that we would go with for the attorney's
5 fees, total for everything?

6 **MS. JACOBS:** Yes, Your Honor.

7 And -- yes. And under the *United States vs.*
8 *Afriyie*, Your Honor, it sets some various standards post
9 *Lagos*, it's out of the Second Circuit, and it is 27 F.4th 161,
10 and it discusses the availability of legal costs and fees as
11 it relates to subpoena responses, assisting with case
12 investigation.

13 So, that's why specifically, Your Honor, I went
14 through, saw the SEC information, everything else that's been
15 included has been stated that it is related specifically to
16 this investigation, it appears so. It appears as well from
17 the review, except for the ones that I've requested be
18 omitted.

19 **THE COURT:** Now, would that be in addition to the
20 number that I read off -- that I have for the current amount
21 of restitution? Do I need to add the approximately \$11,000 to
22 that?

23 **MS. JACOBS:** No, Your Honor.

24 That's already included in the restitution amount
25 that was provided this morning by probation. And it's already

1 been reduced by the amounts that the United States has taken
2 out of the attorney's fees as not applicable to this case.

3 *THE COURT:* Do you agree, Mr. Weinbel?

4 *MR. WEINBEL:* Yes, Your Honor.

5 *MS. JACOBS:* Okay. And then next, Your Honor, we
6 have the Cooley fees. And specifically --

7 *THE COURT:* I think we should go back into private
8 practice.

9 *MS. JACOBS:* Your Honor, in going through, I would
10 direct your attention to page 7. There's a highlight, Bates
11 number 7, there's a highlight there where it indicates that
12 the attorney was speaking with the client on a new matter --

13 *THE COURT:* Yeah. That --

14 *MS. JACOBS:* -- so we have omitted that one from our
15 calculation. And then additionally, I believe that's page
16 17 -- yeah, on Bates number 17 there's entries for December
17 16th, December 20th and December 21st, all that only relate to
18 the SEC investigation. So, I've gone through, applied the
19 applicable billing rate of each of these individuals and
20 reduced the amount by that as well.

21 So, the original amount for Cooley for the victim
22 ACME was \$81,043.15. That has since been reduced and it's
23 current with the Court's calculation of restitution to
24 \$77,946.65.

25 *THE COURT:* Any objection?

1 **MR. WEINBEL:** No, Your Honor.

2 **THE COURT:** All right. I just am shocked that any
3 attorney with a straight face, I don't care where you're
4 located, can charge 1350 an hour. But I'm glad Cooley gave us
5 a 10% discount in the amount of \$2500.

6 Go ahead. That's -- that's just ridiculous.

7 **MS. JACOBS:** Yes, Your Honor.

8 So, now briefly going to the Blumberg invoices. As
9 you'll see in pages 1 through -- Bates numbers 1 through -- I
10 apologize -- 36, there's various highlights throughout there.
11 The yellow highlights indicate that those actions were just
12 taken in relation to the SEC investigation.

13 So, I went through and calculated all of those based
14 on the billable rate sheet that I provided to the Court and
15 defense counsel and --

16 **THE COURT:** So, like -- let me ask you something.
17 Where it says prepared for interview with DOJ and SEC, I hope
18 you're eliminating that entire amount?

19 **MS. JACOBS:** Well, Your Honor, I --

20 **THE COURT:** Or did you half it?

21 **MS. JACOBS:** I had halved it out of this. I
22 certainly can eliminate the entire amount. It's up to your
23 discretion. Whenever -- the yellow I've eliminated in total.
24 The pink has been -- you know, I did it at 50% based on the
25 fact that it was in preparation of both. But it's really up

1 to the Court's discretion as it relates to that.

2 *THE COURT:* Okay. Then I tell you what I'm going to
3 do, because as I said, I think that if you can't bill your
4 time correctly then you don't deserve any of the amounts,
5 they're not supported by evidence. So, let me take a look at
6 these amounts in pink and I'll be revising and taking those
7 out accordingly.

8 And I'm sure that Mr. Weinbel will not object if I
9 eyeball it and give an estimated amount.

10 *MS. JACOBS:* And, Your Honor, I do have the total
11 amount for the pink and yellow, if that would be helpful.

12 *THE COURT:* Okay. Give me the amount of the pink
13 and we'll take that out.

14 *MS. JACOBS:* Okay. The pink, in total, Your Honor,
15 was \$60,540.80.

16 *THE COURT:* All right. Then giving the defendant
17 the benefit of the doubt, I'll be taking \$70,000 off of the
18 \$65,485,000 amount.

19 Any objection?

20 *MR. WEINBEL:* No, Your Honor.

21 *THE COURT:* What did I say, \$70,000?

22 *MS. JACOBS:* Yes, Your Honor.

23 *THE COURT:* All right. So, the revised amount is
24 going to be \$65,400 -- I'm sorry -- \$65,415,938.12. And this
25 is to reflect the Court's discount of the bills that were

1 submitted by the Mayer Brown firm out of Chicago as their
2 billing statements are just a mess.

3 *MS. JACOBS:* Yes, Your Honor.

4 *THE COURT:* Any objection?

5 *MR. WEINBEL:* No, Your Honor.

6 *THE COURT:* All right. Again, that total amount of
7 restitution is \$65,415,938.12.

8 *MR. WEINBEL:* Your Honor, could I, for the record,
9 state, just based on my objection what we believe the amount
10 should be, knowing that you still overruled?

11 *THE COURT:* Yeah. I want to make some comments
12 first, though.

13 *MR. WEINBEL:* Yes, Your Honor.

14 *THE COURT:* Given that I used to do these sorts of
15 prosecutions, I should know the answer to this. But I hope --
16 I know that I'm going to be making a large forfeiture order on
17 this case -- but I hope that the amounts that are seized,
18 whatever little amount can be gained from Mr. Kirchner through
19 participation in the inmate financial responsibility program,
20 will be prioritized and it will go to the victims first, not
21 the attorneys.

22 Ms. Jacobs, do you know how that works, or
23 Mr. Rocha? Do you have anything you want to tell me,
24 Mr. Rocha?

25 How do -- how do we disburse these amounts at the

1 U.S. Attorney's Office through our Victims Unit? Is there any
2 way that you can prioritize the actual victims over the
3 attorneys that are charging \$1,350 an hour?

4 **MR. ROCHA:** Yes, Your Honor.

5 The natural process -- and Ms. Jacobs actually works
6 with this more than I do. But the actual process is that
7 victims get priority.

8 **THE COURT:** Actual victims, not some attorney that's
9 overcharging. Is that correct, Ms. Jacobs?

10 **MS. JACOBS:** Uh --

11 **THE COURT:** No? You're shaking your head. Let's go
12 off the record for five minutes.

13 *(Discussion held off the record)*

14 **THE COURT:** Go ahead, ma'am, we're back on the
15 record.

16 **MS. JACOBS:** Your Honor, there is a way to
17 prioritize that the payments go directly to the victims prior
18 to the legal fees.

19 **THE COURT:** Do I need to order that?

20 **MS. JACOBS:** Yes, Your Honor.

21 And it would simply be included in the judgment
22 of -- for example, ACME, it would be ACME nonattorney's fees.
23 We could do it as ACME, and then ACME attorney's fees
24 subsequently. So, if the Court can order that the ACME --
25 what their actual loss is, is paid before the attorney's fees.

1 We just need to have it -- the amounts separated out, which we
2 do have currently.

3 *THE COURT:* Probation, do think we can do that in
4 our judgment? Sounds pretty complicated to me.

5 *PROBATION OFFICER:* I think we can make that happen,
6 Your Honor.

7 *THE COURT:* Would you, Ms. Jacobs, please work with
8 not only probation, but I also want you to be sure to copy
9 everything with Mr. Weinbel and get his input as well?

10 *MS. JACOBS:* Yes, Your Honor.

11 *THE COURT:* But the victims in this case are the
12 ones who will need first priority. And I'll be ordering that
13 orally at this time; and again, when I make my restitution
14 order when I pronounce the sentence. But I want to make sure
15 that that is made clear in the written judgment that the
16 actual victims receive the funds first.

17 And to the extent, Mr. Rocha, when we do our
18 forfeiture proceedings at a later date, if I need to indicate
19 that on the forfeiture orders, if there's a way to do that, I
20 would like to do so.

21 *MR. ROCHA:* Yes, Your Honor.

22 *THE COURT:* Okay?

23 *MS. JACOBS:* Yes, sir.

24 *THE COURT:* So, again, I want to give Mr. Weinbel a
25 chance to make his statements. But I've reduced the

1 restitution in this amount by the amount of \$70,000, to
2 reflect billing discrepancies from the Mayer Brown firm --

3 *MR. WEINBEL:* Thank you, Judge.

4 *THE COURT:* -- as outlined in Exhibit C of the
5 Government.

6 All right. Mr. Weinbel, I'm going to turn it back
7 over to you, sir.

8 *MR. WEINBEL:* Just for record purposes, the amount
9 that we believe the restitution should be set at is based on
10 the amount proven at trial, and then what we just went through
11 with Ms. Jacobs. So, the original amount being
12 \$22,661,240.96. And then adding to that these fees that we
13 just discussed, the total amount, we believe, would be
14 \$23,175,673.18 in total restitution.

15 *THE COURT:* Does that include the \$75,000 haircut
16 that I gave the Mayer Brown firm?

17 *MR. WEINBEL:* Yes, sir.

18 *THE COURT:* All right. Your objection is duly noted
19 and it's overruled.

20 *MR. WEINBEL:* Thank you.

21 *THE COURT:* All right. Let's make some findings
22 with regards to the guidelines, and I know, Mr. Weinbel, you'd
23 like to make a presentation on your client's behalf. I have
24 had a chance to read your downward variance/downward departure
25 motion.

1 Okay. Ms. Jacobs, thank you for clearing that up.

2 **MS. JACOBS:** Yes, Your Honor.

3 **THE COURT:** In cases like this I believe that that
4 is the hardest part of the job, trying to really nail down
5 what the restitution should be. But for purposes of my
6 rulings, I do believe that the amount submitted by the United
7 States, as we just discussed, and on the record, are supported
8 by a preponderance of the evidence and I am accepting them and
9 we will be making a restitution order in accordance with
10 those.

11 Mr. Weinbel, feel free to take my findings up with
12 the Fifth Circuit. And if they disagree with me I'm happy to
13 change it.

14 All right. So, the Government's objection is
15 sustained, defendant's objection is overruled.

16 At this time I'll be adopting as my final findings
17 of fact the statements of fact made in the presentence report,
18 subject to and including the changes and qualifications made
19 by the addendum to the presentence report, and that I made in
20 response to the objections to the presentence report. As I
21 said, I've sustained the Government's objection and overruled
22 defense objection.

23 And after having considered the conclusions
24 expressed by the probation officer in the presentence report
25 as to the appropriate guideline calculations, after having

1 considered the objections, having also considered the first
2 and second addendums, it's my determination that the
3 appropriate guideline calculations for Mr. Kirchner are as
4 follows: Total offense level of 38, a criminal history
5 category of I, an imprisonment range of 235 to 293 months, a
6 supervised release range of one to three years per count, and
7 then we have a fine range of \$50,000 to \$250,000, plus costs
8 of imprisonment and supervision.

9 As I said, I have read your sentencing memorandum,
10 as well as the motion for a downward variance that you've
11 included therein, Mr. Weinbel. But nevertheless, I know
12 you'll want to make some comments and arguments on your
13 client's behalf. So, please do so at this time.

14 **MR. WEINBEL:** Thank you, Judge.

15 Just to supplement that, you know the cases I pulled
16 and put in that memo are some that are more televised or
17 publicized cases. And I think, you know, we could have pulled
18 on the tens of thousands of cases that happen with wire fraud
19 in the United States every year, and they all seem to point to
20 these guidelines being completely overblown by what is
21 typically handed out. And I know that sentencing discrepancy
22 and disparity are one of the key factors in this Court.

23 So, in looking -- even if we use the number that we
24 just talked about of 65 million for restitution, one of the
25 cases I talked about was Elizabeth Holmes, and her amount

1 ended up being \$71 million. But in addition to that, her fake
2 product and actions ended up leading to people dying because
3 of it; whereas, in here, Mr. Kirchner has only been charged
4 with the 23 million, and then we're finding that the
5 restitution is 65. And none of his actions led to anything
6 like that. She got 11 years, and his guidelines are twice
7 that. And so, I don't see how that can be fair in our
8 judicial system.

9 Looking at the other two cases I pointed out you
10 find similar things. I did a breakdown of what each year
11 would be worth, and no matter how you would do it, using any
12 of the cases or any of the ones that happened recently in
13 Dallas or Fort Worth, you still get that -- something around
14 the range of five years or less would be an appropriate and
15 accurate sentence when compared to the other crimes of this
16 magnitude.

17 Thank you, Judge.

18 **THE COURT:** Mr. Kirchner, would you like to make a
19 presentation or give a statement rather? You don't have to.

20 **THE DEFENDANT:** Not at this time, Your Honor. I
21 think Chris covered what I would have liked to have said.

22 **THE COURT:** Does the Government wish to be heard?

23 **MR. DETZKY:** Briefly, Your Honor.

24 The Government asks the Court to impose a sentence
25 within the applicable guideline range of 235 months to 293

1 months. And things that the Government looks at in this case
2 that make it an egregious case are that the defendant's crimes
3 were the product of a series of decisions made over a
4 prolonged period of time. And he could have stopped at any
5 point in time, but he kept going.

6 His lies became more brazen. He fraudulently raised
7 more and more investor funds. He subsequently stole and
8 embezzled more and more investor money. He told more and more
9 lies and he became greedier and greedier over time. And at no
10 time, throughout these entire proceedings and after, has the
11 defendant shown an ounce of remorse for his actions.

12 For the monetary and reputational losses that the
13 victims suffered, no remorse for Slync's employees and Slync's
14 other cofounders who have nothing to show for their years of
15 hard work except a bankrupt company and reputational stains.
16 He's blamed everyone but himself for the company's collapse.
17 And he even perjured himself on the stand in a failed attempt
18 to deceive the jury.

19 The defendant's criminal conduct to date
20 demonstrates that he is undeterred from criminal conduct based
21 on the potential damage to others or respect for the law. So,
22 the risk of recidivism here is real, and there is a
23 significant likelihood that if the defendant is released back
24 into society, without a lengthy sentence of incarceration, he
25 will have the opportunity to commit another fraud. So, it's

1 necessary that the sentence imposed disable the defendant from
2 being in that position in the future.

3 And general deterrence is also a significant factor
4 here. Because the extent of the defendant's ill-gotten gains
5 serve as a strong temptation to any would-be fraudster, unless
6 it is clear that in the end the conduct carried a severe
7 punishment.

8 *THE COURT:* All right. Thank you, counsel.

9 *MR. DETZKY:* Thank you very much, Your Honor.

10 *THE COURT:* Is there a request for placement?

11 *MR. WEINBEL:* As close to D/FW as possible, sir.

12 *THE COURT:* Okay. All right. At this time I'll
13 state the sentence determined after my consideration of the
14 factors set forth under Title 18 United States Code, Section
15 3553(a), and also the advisory sentencing guidelines, as well
16 as the conduct that was considered by the jury at the trial on
17 this case and the evidence that was used to support the
18 convictions in this case, as well as what was laid out in our
19 presentence report and the two addenda to that report and
20 what's in the record before me.

21 After I state the sentence, I'll give the attorneys
22 a final chance to make any legal objections before I finally
23 impose the sentence.

24 I do believe that a downward variance is not
25 warranted in this case, and that request is overruled.

1 Let me state the sentence at this time. And before
2 I get into the restitution amounts, Ms. Jacobs, just correct
3 me if I'm wrong, but I do need to reduce the amount that I
4 have listed on behalf of ACME Capital by \$70,000; is that
5 correct?

6 **MS. JACOBS:** It is actually on behalf of Blumberg,
7 Your Honor, the \$70,000.

8 **THE COURT:** You said that. I apologize. Blumberg,
9 okay.

10 **MR. ROCHA:** Your Honor --

11 **THE COURT:** Yeah.

12 **MR. ROCHA:** I just want to remind you that the
13 forfeiture has to be orally pronounced.

14 **THE COURT:** I was going to take that up after we're
15 done.

16 **MR. ROCHA:** Okay.

17 **THE COURT:** All right. The forfeiture will be
18 announced to the extent that I am -- will be announcing that
19 the forfeiture is the items that were indicated -- and I
20 believe in Docket Number 144; is that correct?

21 **MR. ROCHA:** Yes, Your Honor.

22 **THE COURT:** Okay. Well, I will be adopting that.
23 But as far as any outstanding disputes over what the
24 Government's forfeited, after we are done with the sentencing
25 I would like for you to address the current status of that; if

1 there are any conflicts, disputes, et cetera, et cetera, as to
2 the ownership of the items that will be seized, were there any
3 liens, et cetera, et cetera. I know you'll educate me, okay?

4 *MR. ROCHA:* Sure. Thank you.

5 *THE COURT:* Thank you.

6 Okay. At this time I'll pronounce the sentence.
7 And again, I'll give the attorneys a chance to object.

8 It is the judgment of the Court that the defendant,
9 Christopher Kirchner, in Cause Number 4:23-CR-127-P, is hereby
10 committed to the custody of the United States Bureau of
11 Prisons for a period of 240 months as to each Counts 1
12 through 4, and 120 months as to each Count 5 through 11, all
13 to run concurrently for a total sentence of 240 months.

14 I am not ordering a fine or the costs of
15 incarceration, because this defendant does not have the
16 financial resources or the future earning capacity to pay a
17 fine or the costs of his incarceration.

18 However, I am ordering restitution in the amount of
19 \$65,415,938.12. That restitution shall be paid to the United
20 States District Clerk, here in Fort Worth, Texas, for
21 disbursement to the following: Blumberg Capital, in the
22 amount of \$6,927,619.24; Correlation Ventures, in the amount
23 of \$4,192,393.37; SC-NGU, LLC, care of Ronnie Lott, in the
24 amount of \$24,999.34; Steven Fleck, in the amount of
25 \$149,999.99; to Hack VC 2020 LP, care of Ed Roman, in the

1 amount of \$139,299.45. Sorry, Monica, I'll try to go slow.

2 *PROBATION OFFICER:* Judge --

3 *THE COURT:* Yeah.

4 *PROBATION OFFICER:* I believe that last one was
5 139,299.45.

6 *THE COURT:* Okay. Let me revise the amount for Hack
7 VC 2020 LP, I mistakenly identified the number. The amount of
8 restitution due to Hack VC 2020 LP, care of Ed Roman, is
9 \$139,229.45.

10 To SLV (sic) Fund I, Series of Hack VC LP, the
11 amount of restitution is \$310,769.22; to the Atwell Family
12 Revocable Living Trust, care of Jim Atwell, the amount is
13 \$40,185.66; to Wayne D. Atwell and Peggy R. Atwell Revocable
14 Trust, care of Wayne Atwell, \$2,567.31; to the -- I may be
15 mispronouncing this, but to the Weitman, W-E-I-T-M-A-N, Family
16 Trust, care of Paul Weitman, the amount of \$50,232.07.

17 To Broastreet Principal Investments, LLC, Stone
18 Bridge 2020, LP and Stone Bridge 2020 Offshore Holdings II,
19 LP, care of Goldman Sachs Legal Department, the amount of
20 \$34,999,997.45; to 235 Capital Partners, care of Jim Atwell,
21 the amount of \$9,997.98; to ACME Capital, attention Michael
22 Derrick CFO, the amount of \$16,642,714.20; to JP Entrepreneur
23 Fund II --

24 *COURTROOM DEPUTY:* Judge.

25 *THE COURT:* Did I mispronounce -- what did I state

1 wrong? JP Entrepreneur?

2 *PROBATION OFFICER:* ACME.

3 *THE COURT:* Huh?

4 *COURTROOM DEPUTY:* ACME.

5 *THE COURT:* \$16,642,711.40 will be due and payable
6 to ACME Capital, attention Michael Derrick CFO. That revises
7 the previous amount I said for ACME Capital.

8 Again, let me state again, JP Entrepreneur Fund II,
9 LLC JPX, care of Jordan Park Group, \$199,997.72; to SL
10 Gaingels Fund 1, Series of Zachary Ginsburg Funds, LP,
11 \$1,130,235.13; to Gaingels Slync, LLC, care of the Moulton
12 Law, \$420,000; finally, to Benjamin Burman, in the amount of
13 \$175,002.79.

14 Restitution is due and payable immediately. But if
15 upon commencement of the term of supervised release any part
16 of the \$65,415,938.12 restitution ordered by this judgment
17 remains unpaid, the defendant shall make payments on such
18 unpaid balance at a rate of at least \$200 per month, the first
19 such payment to be made no later than 60 days after
20 defendant's released from confinement, and another payment to
21 be made on the same day of each month thereafter until
22 restitution is paid in full.

23 The Court recommends to the Bureau of Prisons that
24 the defendant be allowed to participate in the inmate
25 financial responsibility program.

1 The Court is also required to make a forfeiture
2 order, as Mr. Rocha has pointed out. For purposes of
3 expediency, I am not going to read out all of the items that
4 have been seized for the purposes of forfeiture in this case.
5 However, I will be adopting for purposes of forfeiture those
6 items that are outlined and referenced in Docket Number 144,
7 that's the amended preliminary order of forfeiture referencing
8 the money judgment and forfeiture against the defendant.

9 And, again, pursuant to Federal Rule of Criminal
10 Procedure 32.2(b)(1)(A) and 21 United States Code, Section
11 853(a), the Court will be imposing this forfeiture order
12 against defendant, a personal money judgment in the amount of
13 \$16,131,500. And payments towards the forfeiture judgment
14 shall be made here to the United States Marshals Service
15 located in Dallas, Texas.

16 But, again, I'm not going to read various assets
17 that have been outlined in the amended preliminary order of
18 forfeiture at Docket Number 144 that have been condemned and
19 forfeited to the United States, but the Court will adopt all
20 of the items listed in that order of forfeiture.

21 Just for purposes of flavoring the sentencing, those
22 include everything from a 2020 Rolls-Royce to a Richard Mille
23 platinum watch, various men's and ladies' Rolexes, watches and
24 jewelry from the Cartier Company, various bank accounts and
25 expensive wines. Those have all been seized and will be

1 forfeited to the United States as part of the judgment.

2 That's all outlined in Docket Number 144.

3 I'm also ordering upon release from imprisonment,
4 the defendant shall be placed on a term of supervised release
5 for three years as to Count 1 through 11, each count to run
6 concurrently for a total time of supervised release of three
7 years.

8 Now, Mr. Kirchner, during that three-year time
9 period, after you're released from prison, you are going to be
10 subject to numerous conditions which you must comply with or
11 you risk being sent back to prison if you don't. You're going
12 to be subject to our mandatory conditions found under 18 U.S.
13 Code, 3583(d), the standard conditions that are found in
14 Section 5D1 of our guidelines manual.

15 But also additional terms of supervised release that
16 we gave you this morning in this order, that you have returned
17 to me with your signature. Now, Mr. Kirchner, by signing that
18 order you have acknowledged you've received these additional
19 terms, you agree to be bound by them upon your release for
20 that three-year period, you waive me reading them all to you
21 here this morning. But you're also acknowledging you're going
22 to comply with those terms upon your release and that you
23 could be revoked and sent back to prison if you violate any of
24 those. These are all in Part G of your presentence report, if
25 you have any questions.

1 I'm further ordering the defendant pay a special
2 assessment in the amount of \$100 per count, for a total amount
3 of \$1,100.

4 I'll make a nonbinding recommendation that
5 Mr. Kirchner be able to serve his sentence as close to the
6 Dallas/Fort Worth area as possible.

7 In determining the sentence I considered the
8 advisory guidelines, as well as the other directives listed
9 in 18 U.S. Code, Section 3553(a). And I did find that a
10 240-month sentence is sufficient, but not greater than
11 necessary, to comply with the purposes set forth in paragraph
12 2 of Section 3553(a), it reflects the seriousness of and
13 provides a just punishment for the offense, promotes respect
14 for the law, affords adequate deterrence to criminal conduct
15 and protects the public from further crimes of the defendant.

16 Ms. Jacobs, did you have something you needed to
17 tell me?

18 **MS. JACOBS:** Yes, Your Honor.

19 I just wanted to make clear within the sentencing
20 and imposition that the -- for the attorney's fees issue, that
21 the victims get paid first their amounts, and then they're --
22 they've also been awarded restitution for certain attorney's
23 fees and legal costs, that that would be paid subsequently.

24 I just didn't want that to be left out of --

25 **THE COURT:** All right. Let me finish stating the

1 sentence, and then I'll turn it over to you for any objections
2 and I want you to make your record, okay?

3 *MS. JACOBS:* Yes, Your Honor.

4 *THE COURT:* And then I'll revise what I said.

5 So back to the justification of the sentence, I do
6 feel the 240-month sentence is justified based on all the
7 factors, not only in the guidelines, but also under 18 U.S.
8 Code, Section 3553(a).

9 Let me state that even if we didn't have the
10 guidelines or my guideline calculations are later shown to be
11 incorrect, this is still the same sentence that I would have
12 found to be appropriate just under my discretion under *Booker*.
13 We have, basically, a \$70 million theft in this case.

14 I pointed out earlier, Mr. Kirchner, the Sam Bass
15 mural in the back. As I said, he stole about \$60,000 from a
16 train, I think it was up in Kansas or Nebraska. At the time
17 it was one of the largest robberies in the United States; so,
18 the Texas Rangers were out to get him.

19 He basically led a terror campaign of all kinds of
20 thefts from banks to stage coaches. His main area of
21 operations was from the Decatur/Denton area down to Austin.
22 The portrait that you see in the back is the Texas Rangers
23 taking him down in the streets of Round Rock. And he was shot
24 multiple times and later ran outside of town and died shortly
25 thereafter.

1 But if you think you're any better than Sam Bass,
2 you're not. The only difference between you two is that he at
3 least used a gun and had to risk his life. He didn't get to
4 go to golf tournaments around the world and play golf with
5 celebrities. He had to at least hide out and sleep on the
6 ground.

7 You got to fly on private jets and enjoy Rolex
8 watches, et cetera, et cetera. You better be lucky that it's
9 not 1874 and it's 2024. But don't ever think that you're any
10 better than he is.

11 I have now stated the sentence and the reasons
12 therefor. Are there any objections before it's finally
13 imposed?

14 **MR. DETZKY:** No, Your Honor. Except if Ms. Jacobs
15 has something.

16 **THE COURT:** Ms. Jacobs, if you would like to state
17 your proposed amendment to the judgment, I'd like to hear it
18 at this time.

19 **MS. JACOBS:** Yes, Your Honor. So, just for clarity
20 for purposes of the judgment, it is my understanding that the
21 Court intends that the victims be paid for their actual losses
22 prior to any legal costs that they had incurred as a result of
23 subpoenas or witness testimony, things like that, that the
24 Court has already determined to be included in the
25 restitution.

1 So, for Blumberg Capital, LP, that would be the
2 original amount of \$6,499,997.67 of the, I guess, of the
3 restitution amount. And then subsequently payments made to
4 Blumberg to their attorneys, Mayer Brown, in the amount of
5 \$427,621.57.

6 So -- and then second, for Correlation Ventures II,
7 LP, the original loss amount, not including legal costs, is
8 \$4,183,539.37. And the attorney's fees found to be acceptable
9 by the Court for purposes of restitution is \$8,854, to be
10 paid after the original restitution amount of approximately
11 \$4 million is paid in full.

12 And then finally, for ACME, Your Honor, the original
13 restitution loss amount is \$16,564,764.75. They incurred
14 attorney's fees that have been accepted by this Court in the
15 amount of \$77,000 -- or \$77,946.65, which is to be paid after
16 the original loss amount of the approximate \$16 million.

17 **THE COURT:** You've correctly stated my intentions
18 and what I would like for the judgment to reflect. And I'm
19 prepared to accept the addendum that you have suggested. It's
20 completely in line with my orders in this case. And I know
21 that Mr. Weinbel has some objections that he would like to
22 state.

23 But just for the purposes of form, not acknowledging
24 that you agree with these numbers in any way, for the purposes
25 of sentencing and my sentencing calculations here today, and

1 not waiving any argument you may have with the Fifth Circuit
2 with regards to these numbers, are you fine with acknowledging
3 the revision of the numbers as indicated by Ms. Jacobs?

4 *MR. WEINBEL:* Yes, Your Honor.

5 *THE COURT:* Okay. Then the judgment will so
6 reflect.

7 I do need to ask you this, Ms. Jacobs, if you would
8 please work with U.S. Probation and Ms. Milam, to the extent
9 necessary, that we make sure that our judgment is absolutely
10 correct when it comes to the numbers. And of course I would
11 remind you, you have an obligation to share any of your
12 communications with counsel for Mr. Kirchner.

13 Do you understand?

14 *MS. JACOBS:* Yes, Your Honor.

15 *THE COURT:* Okay. I would like to make sure that we
16 get this correct. There is no need for the attorneys in this
17 case to be paid prior to the victims. So, I would like to
18 revise my judgment and make sure that that is reflected in the
19 final judgment that we sign on paper in this case.

20 I appreciate your cooperation with regards to the
21 restitution amount. I know that that's never easy to
22 calculate in any white collar case, particularly when we have
23 numbers as large as we do in this one. So, thank you very
24 much.

25 *MS. JACOBS:* For sure.

1 **THE COURT:** Mr. Weinbel, do you have any objections?

2 **MR. WEINBEL:** Just that the sentence is greater than
3 necessary in the interest of justice, Your Honor.

4 **THE COURT:** Okay. That objection has been
5 considered by the Court, I will be overruling it. But as far
6 as I'm concerned your arguments are preserved for appeal, and
7 you can take those arguments up with the Fifth Circuit. But
8 for my purposes here today, they will be overruled. So, the
9 sentence in this case will be imposed as stated.

10 Mr. Kirchner, you do have the right to appeal the
11 sentence that I've just imposed today for any reason
12 whatsoever. I would encourage you to speak to Mr. Weinbel if
13 you do have a question about whether you should appeal. If
14 you decide to have new attorneys that you can pay for at this
15 point, I would encourage you to speak to them sooner rather
16 than later.

17 I have given you a document that you've signed,
18 Mr. Weinbel has signed, called a Notice of Right to Appeal
19 your conviction and sentence after a sentence has been imposed
20 in a case which has gone to trial on a plea of not guilty.
21 And that document that you've signed outlines what you need to
22 do and the steps you must take in order to appeal.

23 It's very important that you know that that is not
24 your notice to me that you're appealing. That is merely my
25 notice to you of your appellate rights.

1 But I would highly, highly encourage you to speak to
2 Mr. Weinbel if you have any questions. And get your notice of
3 appeal on file with the Court, in writing, in the next 14
4 days.

5 So, with that admonition I will be remanding you to
6 the Marshals.

7 And I would like to have counsel for the United
8 States that's handling the forfeiture matters, Mr. Rocha, if
9 you would come up after the Marshals have taken Mr. Kirchner
10 away and we'll talk about the status of the forfeiture
11 proceedings.

12 *(Defendant leaves courtroom)*

13 **THE COURT:** Mr. Rocha, why don't you go ahead and
14 come on up.

15 So, Mr. Rocha, in reviewing the docket sheet in this
16 case -- and I just pronounced and imposed a sentence
17 forfeiting several assets. As I said, the actual assets
18 themselves are in Docket Number 144, which I've adopted for
19 purposes of sentencing and my judgment in this case. But it's
20 my understanding there may be some fights between interested
21 parties relating to the real estate owned, particularly the
22 home residence of Mr. Kirchner.

23 Can you just enlighten the Court what's going on and
24 do I need to hold a separate hearing on the -- any disputes
25 which may remain related to the forfeiture.

1 **MR. ROCHA:** Yes, Your Honor.

2 So, at this point, as you know, you've ordered
3 forfeiture against the defendant; through the minute
4 preliminary forfeiture, and then, of course, entering it with
5 the judgment today.

6 We have the ancillary proceeding, which is the third
7 parties. There have been petitions filed by three third
8 parties. One is Tarrant County, one is First Citizens Bank.
9 The Tarrant County one was at Docket 118, First Citizens Bank
10 at 116. And there's a petition also by Alyssa Kirchner.

11 Regarding the petition by Tarrant County and First
12 Citizens Bank, those related to the real property. And, as
13 you know, the Government released that through an agreement
14 with another potential third party, Triple S Sports.

15 So, just yesterday both Tarrant County and First
16 Citizens Bank filed their notice of withdrawal to those two
17 petitions; so those are now -- can be dismissed as moot. So,
18 that's Docket Entry 116 and Docket Entry 118.

19 **THE COURT:** All right. Let me make some findings
20 for the record. And after this we'll be entering some
21 electronic orders confirming my oral order in this case. I
22 don't have any docket sheet.

23 But I noticed that as well, Mr. Rocha. The Court,
24 as Mr. Rocha has indicated, has received two motions to
25 withdraw related to the interest of Tarrant County in the

1 property located at 1209 Perdenalas Trail here in Tarrant
2 County. And that also includes various entities here in
3 Tarrant County, including the school districts and the city,
4 taxing entities, et cetera. That motion is filed at Docket
5 Number 147. That motion will be granted and the motion to
6 withdraw that petition is granted and the petition, of course,
7 is now moot.

8 As Mr. Rocha has pointed out, we also have Docket
9 Number 148 that was filed on the same property by First
10 Citizens Bank and Trust. And as indicated, both in the motion
11 and by Mr. Rocha here on the record today, the Bank intends to
12 withdraw its petition for the adjudication of its interest in
13 that property. And the Court will grant that motion; and that
14 request is now moot as well.

15 So, Docket Number 147 and 148 are granted.

16 **MR. ROCHA:** Thank you, Your Honor.

17 There's only one remaining petition, third party
18 petition, is by Alyssa Kirchner that was filed at Docket 119.
19 We filed a motion to dismiss partial -- or motion to dismiss,
20 partially, of the petition back in Docket 134, filed on
21 May 28th of 2024. That motion is still pending.

22 You asked earlier about whether a hearing is
23 necessary or not. We had case law in that motion indicating
24 that a hearing is not necessary if the Court finds that the
25 motion can be decided on the papers. It, essentially, follows

1 the Federal Rules of Civil Procedure, essentially a Rule 12
2 motion.

3 **THE COURT:** Okay. Let's -- that's fine. Let's not
4 get into the merits of that motion. The Court will take that
5 motion under advisement and get a -- I believe that you're
6 right, no oral hearing is required. So, I will be ruling on
7 that motion posthaste.

8 And I believe that should take care of all the
9 ancillary forfeiture proceedings; is that correct?

10 **MR. ROCHA:** Yes, Your Honor.

11 So, once that is cited, we will file a motion for
12 final order of forfeiture which will tie up everything --
13 proposed order will tie up everything.

14 **THE COURT:** All right. Thank you, Mr. Rocha, I
15 appreciate your patience. And, again, thank you, too,
16 Ms. Jacobs for the restitution calculations.

17 **MR. ROCHA:** Thank you.

18 **MR. WEINBEL:** Can I ask Mr. Rocha one question
19 before we finish?

20 **THE COURT:** Sure. Do you want to put it on the
21 record, Chris?

22 **MR. WEINBEL:** Depending on what we talk about.

23 **THE COURT:** All right. Go ahead.

24 *(Discussion between counsel held off the record)*

25 **MR. WEINBEL:** Then we've got nothing, Your Honor.

1 **THE COURT:** All right. Then thank you for informing
2 the Court. I appreciate everyone's patience with me today.
3 Obviously these cases aren't the easiest to sort out at
4 sentencing, but I appreciate your patience.

5 Mr. Weinbel, I appreciate the efforts that you did
6 in a case of this magnitude. You did an excellent job. And I
7 promise you, no one that could have been retained would have
8 done better.

9 **MR. WEINBEL:** Thank you, Judge.

10 **THE COURT:** But I appreciate everybody's patience
11 with me. Thank you-all, and we'll go off the record.

12 *(Proceedings Adjourned)*
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REPORTER'S CERTIFICATE

I, Monica Willenburg Guzman, CSR, RPR, certify
that the foregoing is a true and correct transcript from
the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format
comply with those prescribed by the Court and the Judicial
Conference of the United States.

Signed this 24th day of July, 2024.

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